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LLP
LAWYERS

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Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA Commercial Mortgage Company,

USA Capital Realty Advisors, LLC,¹

USA Capital Diversified Trust Deed Fund,
LLC,

USA Capital First Trust Deed Fund, LLC,²

USA Securities, LLC,³

Debtors.

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**Status And Agenda For April 10, 2009
Hearings filed by USACM Liquidating
Trust**

Hearing Date: April 10, 2009
Hearing Time: 9:30 a.m.

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

Agenda for 9:30 a.m.

1. **Status hearing re objection to claim 1279 of Lerin Hills Ltd:** 06-10725-lbr, USA COMMERCIAL MORTGAGE COMPANY Chapter: 11

Objection Filed: 3/13/07 Objection to Claim 1279 of Lerin Hills Ltd. in the amount of with Certificate of Service filed by ROB CHARLES on behalf of USACM LIQUIDATING TRUST [DE 3080]

Reply Filed: 6/06/07 Reply to Objection of the USACM Liquidating Trust to Proof of Claim File by Lerin Hills Ltd. (Claim No. 203 & 1279) Filed by MARJORIE A. GUYMON on behalf of MOUNTAIN WEST MORTGAGE, LLC [DE 3904]

Status Continued from 4/26/07, 6/15/07, 12/20/07, 2/21/08, 5/8/08, 2/3/09, and 2/20/09. Lerin Hill's counsel has filed a motion to withdraw.

2. **Scheduling Conference:** Adv. 08-01121-lbr, USACM Liquidating Trust v. Fertitta Enterprises, Inc.

Order filed: 1/26/09 Order Re Scheduling Conference. Scheduling Conference scheduled for 4/10/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 39]

Status Ready to proceed

3. **Status Hearing re Complaint:** Adv. 08-01132-lbr, USA Capital Diversified Trust Deed Fund LLC v. Fulton

Order filed: 2/05/09 Order Setting Status Hearing and Setting Case for Trial. Status hearing to be held on 4/10/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg.. Trial date set for 6/29/2009 at LBR-Courtroom 1, Foley Federal Bldg. [DE 27]

Status Ready to proceed

1 4. **Motion to Withdraw as Attorney of Record:** 06-10725-lbr, USA
2 COMMERCIAL MORTGAGE COMPANY Chapter: 11

3 **Motion filed:** Motion to Withdraw as Attorney of Record Filed by MARJORIE
4 2/19/09 A. GUYMON on behalf of MOUNTAIN WEST MORTGAGE,
5 LLC [DE 6838]

6 **Status** No response filed.

7 5. **Status Hearing Re: Objection to Claim 203 of Mountain West**
8 **Mortgage Co./Lerin Hills in the amount of \$2,048,000.00:** 06-10725-lbr, USA
9 COMMERCIAL MORTGAGE COMPANY Chapter: 11

10 **Objection Filed:** Objection to Claim 203 of Mountain West Mortgage Co./Lerin
11 3/13/07 Hills in the amount of \$2,048,000.00 with Certificate of Service
12 filed by ROB CHARLES on behalf of USACM LIQUIDATING
13 TRUST [DE 3078]

14 **Reply Filed:** Reply to Objection of the USACM Liquidating Trust to Proof of
15 6/06/07 Claim File by Lerin Hills LTD (Claim No. 203 & 1279) Filed by
16 MARJORIE A. GUYMON on behalf of MOUNTAIN WEST
17 MORTGAGE, LLC [DE 3904]

18 **Status** Continued from 4/26/07, 6/15/07, 10/15/07, 2/21/08, 5/8/08,
19 7/24/08, 2/3/09, and 2/20/09. Lerin Hill's council has filed a
20 motion to withdraw. Trial is scheduled on October 8, and 9, 2009.

21 6. **Status Hearing Re: Second Amended Complaint:** Adv. 08-01125-lbr,
22 USACM Liquidating Trust v. Eagle Ranch, LLC et al

23 **Order filed:** Order Setting Status Hearing. Status hearing to be held on
24 2/24/09 4/10/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg.
25 [DE 95]

26 **Stipulation filed:** Stipulation By EAGLE RANCH, LLC and Between Defendants
27 4/03/09 Anthony Monaco, Susan Monaco and Monaco Diversified
28 Corporation and Plaintiff USACM Liquidating Trust *to Continue*
29 *Hearing on Defendant, Eagle Ranch's Motion to Dismiss Second*
30 *Amended Complaint* Filed by DANA A. DWIGGINS on behalf of
31 EAGLE RANCH, LLC [DE 118]

32 **Status** Ready to proceed.

7. **Amended Motion to Stay Pending Determination of Arbitrability, or Alternatively, to Dismiss or Stay Proceedings Pending Arbitration:** Adv. 08-01135-lbr, USACM Liquidating Trust et al v. Wells Fargo Bank, N.A.

Motion filed: Amended Motion To Stay *Pending Determination of Arbitrability, or Alternatively, to Dismiss or Stay Proceedings Pending Arbitration* with Certificate of Service Filed by MICHAEL W. O'DONNELL on behalf of WELLS FARGO BANK, N.A. [DE 104]

List of Documents filed: *List of Documents Contained in Court's Courtesy Copy of Documents Relied Upon in Support of Defendant's Amended Motion to Stay Pending Determination of Arbitrability, or Alternatively, to Dismiss or Stay Proceedings Pending Arbitration* with Certificate of Service Filed by STEVE A. PEIRCE on behalf of WELLS FARGO BANK, N.A. [DE 112]

Response filed: Response with Certificate of Service Filed by LISA TSAI on behalf of USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC [DE 113]

List of Filings filed: *List of Filings to be Considered in Connection with Defendant's Amended Motion to Stay Pending Determination of Arbitrability, or Alternatively, to Dismiss Proceedings Pending Arbitration* with Certificate of Service Filed by LISA TSAI on behalf of USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC [DE 115]

Stipulation filed: Stipulation By WELLS FARGO BANK, N.A. and Between USA Capital Diversified Trust Deed Fund, LLC *and proposed Order to Enlarge Briefing Schedule on Defendant's Reply to Plaintiff USA Capital Diversified Trust Deed Fund LLC's Response to Wells Fargo Bank, N.A.'s Amended Motion to Stay Pending Determination of Arbitrability, or Alternatively, to Dismiss Proceedings Pending Arbitration* Filed by STEVE A. PEIRCE on behalf of WELLS FARGO BANK, N.A. [DE 116]

Stipulation filed: Stipulation and Order to Enlarge Briefing Schedule on Defendant's Reply to Plaintiff USA Capital Diversified Trust Deed Fund LLC's Response to Wells Fargo Bank, N.A.'s Amended Motion to Stay Pending Determination of Arbitrability, or Alternatively, to Dismiss Proceedings Pending Arbitration [DE 117]

Reply filed: *Reply to Plaintiff's Response* with Certificate of Service Filed by DEAN V. FLEMING on behalf of WELLS FARGO BANK, N.A. [DE 118]

1 **Status** Continued to 4/30/09.

2
3 8. **Scheduling Conference:** Adv. 08-01135-lbr, USACM Liquidating Trust et
4 al v. Wells Fargo Bank, N.A.

5 **Order filed:** Order Setting Scheduling Conference. Scheduling Conference
6 2/24/09 scheduled for 4/10/2009 at 10:30 AM at LBR-Courtroom 1, Foley
7 Federal Bldg. [DE 107]

8 **Status** Refer to Item No. 7 above.

9 9. **Motion for Order Dismissing the First, Second, Third and Fourth**
10 **Claims for Relief With Prejudice Against Anthony Monaco, Susan K. Monaco and**
11 **Monaco Diversified Corporation Pursuant to Fed. R. Civ. P. 12(B)(6); Memorandum**
12 **of Points and Authorities:** Adv. 08-01125-lbr, USACM Liquidating Trust v. Eagle
13 Ranch, LLC et al

14 **Motion filed:** Motion to Dismiss (*Motion for Order Dismissing The First,*
15 *Second, Third and Fourth Claims for Relief with Prejudice*
16 *Against Anthony Monaco, Susan K. Monaco and Monaco*
17 *Diversified Corporation Pursuant to Fed. R. Civ. P. 12(b)(6);*
18 *Memorandum of Points and Authorities with Certificate of*
19 *Service*) with Certificate of Service Filed by RICHARD F.
20 HOLLEY on behalf of ANTHONY MONACO, SUSAN K
21 MONACO, MONACO DIVERSIFIED CORPORATION [DE
22 86]

23 **Request for** Request for Judicial Notice *in Support of Motion for Order*
24 **Judicial Notice** *Dismissing the First, Second, Third and Fourth Claims for Relief*
25 **filed:** *with Prejudice Against Anthony Monaco, Susan K. Monaco and*
26 *Monaco Diversified Corporation Pursuant to Fed. R. Civ. P.*
12(b)(6); Memorandum of Points and Authorities with Certificate
of Service with Certificate of Service Filed by RICHARD F.
HOLLEY on behalf of ANTHONY MONACO, SUSAN K
MONACO, MONACO DIVERSIFIED CORPORATION [DE
90]

Response filed: Response to *MONACO DEFENDANTS' Motion to Dismiss* with
Certificate of Service Filed by MICHAEL YODER on behalf of
USACM LIQUIDATING TRUST [DE 103]

Reply filed: 3/13/09 *Reply To Response To Monaco Defendants' Motion For Order Dismissing The First, Second, Third And Fourth Claims For Relief With Prejudice Against Anthony Monaco, Susan K. Monaco And Monaco Diversified Corporation Pursuant To Fed. R. Civ. P. 12(b)(6) Filed by OGONNA M. ATAMOH on behalf of ANTHONY MONACO, SUSAN K MONACO, MONACO DIVERSIFIED CORPORATION [DE 112]*

Status Ready to proceed.

10. **Status Hearing Re: Third Amended Complaint:** Adv. 07-01154-lbr; USACM Liquidating Trust v. J.M.K. Investments, Ltd. & Simon Family Trust & Steven Portnoff & JWB Investments, Inc. & Brouwers Family LP & Larry C Johns & Mary L Johns & Paul Bloch Living Trust & Roni Amid & Robert M Portnoff & Sarah Portnoff & Morningside Homes, Inc. & Aurora Investments LP & Steven Janovitch & Linda Janovitch & First Savings Bank & the Marvin & Valliera Myers Trust & Larry J Middleton & Jennifer Middleton & Alabruj Limited Partnership & Francis Family Trust & First Savings Bank fbo Valliera McGuire

Third Amended Complaint filed: 7/28/08 Third Amended Complaint Filed by STEPHEN T LODEN on behalf of USACM LIQUIDATING TRUST against all defendants [DE 150]

Order filed: 3/27/09 Order Re Status Hearing. Status hearing to be held on 4/10/2009 at 09:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 201]

Status: Settlement approved on 11/24/08 [DE 6629 in Bankruptcy Case]

11. **Amended Objection to Claim 10725-02572 of Augustine Tuffanelli Family Trust in the amount of \$100,000.00 (Amended to Correct Claim Number Only):** 06-10725-lbr, USA COMMERCIAL MORTGAGE COMPANY Chapter: 11

Objection filed: 2/26/09 Amended Objection to Claim 10725-02572 of Augustine Tuffanelli Family Trust in the amount of \$100,000.00 (*Amended to Correct Claim Number Only*) with Certificate of Service Filed by JOHN HINDERAKER on behalf of USACM LIQUIDATING TRUST [DE 6864]

Status No response filed.

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2 **12. First Omnibus Objection to Proofs of Claim Based Upon Investment in**
3 **the Del Valle Homes, LLC Isleton Loan Except for Amounts Designated as**
4 **“Unremitted Principal”:** 06-10725-lbr, USA COMMERCIAL MORTGAGE
COMPANY Chapter: 11

5 **Objection filed:** *First Omnibus Objection to Proofs of Claim Based Upon*
3/02/09 *Investment in the Del Valle Homes, LLC Isleton Loan Except for*
6 *Amounts Designated as "Unremitted Principal" with Certificate*
7 *of Service Filed by JOHN HINDERAKER on behalf of USACM*
LIQUIDATING TRUST [DE 6872]

8 **Status** No response filed.
9

10 **13. Second Omnibus Objection to Proofs of Claim Based, in Whole or In**
11 **Part, Upon Investment in Del Valle Homes, LLC Isleton Loan Except for Amounts**
12 **Designated as “Unremitted Principal”:** 06-10725-lbr, USA COMMERCIAL
MORTGAGE COMPANY Chapter: 11

13 **Objection filed:** *Second Omnibus Objection to Proofs of Claim Based, in Whole or*
3/03/09 *In Part, Upon Investment in Del Valle Homes, LLC Isleton Loan*
14 *Except for Amounts Designated as "Unremitted Principal" with*
15 *Certificate of Service Filed by JOHN HINDERAKER on behalf*
of USACM LIQUIDATING TRUST [DE 6881]

16 **Status** No response filed.
17

18 **14. Third Omnibus Objection to Proofs of Claim Based, In Whole Or In**
19 **Part, Upon Investment In Del Valle Homes, LLC Isleton Loan Except for Amounts**
20 **Designated as Unremitted Principal:** 06-10725-lbr, USA COMMERCIAL
MORTGAGE COMPANY Chapter: 11

21 **Objection filed:** *Third Omnibus Objection to Proofs of Claim Based, In Whole Or*
3/03/09 *In Part, Upon Investment In Del Valle Homes, LLC Isleton Loan*
22 *Except for Amounts Designated as Unremitted Principal with*
23 *Certificate of Service Filed by JOHN HINDERAKER on behalf*
of USACM LIQUIDATING TRUST [DE 6883]

24 **Status** No response filed.
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1
2 **15. Fourth Omnibus Objection of USACM Trust to Proofs of Claim Based,**
3 **in Whole or in Part, Upon Investment in Del Valle Homes, LLC Isleton Loan Except**
4 **for Amounts Designated as Unremitted Principal: 06-10725-lbr, USA**
5 **COMMERCIAL MORTGAGE COMPANY Chapter: 11**

6 **Objection filed:** *Fourth Omnibus Objection of USACM Trust to Proofs of Claim*
7 *3/03/09 Based, in Whole or in Part, Upon Investment in Del Valle Homes,*
8 *LLC Isleton Loan Except for Amounts Designated as Unremitted*
9 *Principal with Certificate of Service Filed by JOHN*
10 *HINDERAKER on behalf of USACM LIQUIDATING TRUST*
11 *[DE 6885]*

12 **Status** No response filed.

13
14 **16. Objection to Claim 10725-02576 of Kyong Austin in the amount of**
15 **\$61,293.43 as Filed in Wrong Debtor's Case and Not Timely Filed: 06-10725-lbr,**
16 **USA COMMERCIAL MORTGAGE COMPANY Chapter: 11**

17 **Objection filed:** Objection to Claim 10725-02576 of Kyong Austin in the amount
18 *3/03/09 of \$61,293.43 as Filed in Wrong Debtor's Case and Not Timely*
19 *Filed with Certificate of Service Filed by JOHN HINDERAKER*
20 *on behalf of USACM LIQUIDATING TRUST [DE 6890]*

21 **Status** No response filed.

22
23 **17. Objection to Claim 10725-01104 of William Daniel Carter in the amount**
24 **of \$107,998.21 as Duplicative and \$75,000 of Claim 10725-01299 as Based in Part**
25 **Upon an Investment in FTDF: 06-10725-lbr, USA COMMERCIAL MORTGAGE**
26 **COMPANY Chapter: 11**

Objection filed: Objection to Claim 10725-01104 of William Daniel Carter in the
amount of \$107,998.21 *as Duplicative and \$75,000 of Claim*
10725-01299 as Based in Part Upon an Investment in FTDF with
Certificate of Service Filed by JOHN HINDERAKER on behalf
of USACM LIQUIDATING TRUST [DE 6892]

Status No response filed.

18. Motion to Interpret the USA Capital Reorganization Plan with Respect
to Professionals Liability: 06-10725-lbr, USA COMMERCIAL MORTGAGE
COMPANY Chapter: 11

Motion filed: *Motion to Interpret the USA Capital Reorganization Plan with Respect to Professionals Liability* Filed by JEFFREY A. COGAN on behalf of Alfred Olsen, Jr. [DE 6894]

Response filed: *Response To Motion To Interpret The USA Capital Reorganization Plan With Respect To Professionals Liability* with Certificate of Service Filed by ROB CHARLES on behalf of USACM LIQUIDATING TRUST [DE 6954]

Response filed: *Response USA Commercial Mortgage Company's Response To Motion To Interpret The USA Capital Reorganization Plan With Respect To Professional Liability* Filed by JEANETTE E. MCPHERSON on behalf of USA COMMERCIAL MORTGAGE COMPANY [DE 6955]

Status The parties will present oral argument on the motion.

19. **Objection to Claim 10725-00489 of Lloyd Blair in the amount of \$960,946.48 Filed in Wrong Debtor's Case; Objection of DTDF to Proposed Allowance of Claim:** 06-10725-lbr, USA COMMERCIAL MORTGAGE COMPANY Chapter: 11

Objection filed: *Objection to Claim 10725-00489 of Lloyd Blair in the amount of \$960,946.48 Filed in Wrong Debtor's Case; Objection of DTDF to Proposed Allowance of Claim* with Certificate of Service Filed by JOHN HINDERAKER on behalf of USACM LIQUIDATING TRUST [DE 6925]

Status No response filed.

20. **Motion for Leave to File First Amended Complaint:** Adv. 08-01132-lbr, USA Capital Diversified Trust Deed Fund LLC v. Fulton

Motion filed: *Motion for Leave to File First Amended Complaint* with Certificate of Service Filed by MICHAEL YODER on behalf of USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC [DE 43]

Stipulation approved: *Stipulation and Order Regarding the Filing of Plaintiff's First Amended Complaint* [DE 48]
4/06/09

Status Hearing vacated.

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Dated April 7, 2009.

LEWIS AND ROCA LLP

By: /s/ RC (#6593)
Susan M. Freeman, AZ 4199 (*pro hac vice*)
Rob Charles, NV 6593
John Hinderaker, AZ 18024 (*pro hac vice*)
Counsel for USACM Liquidating Trust

PROOF OF SERVICE

COPY of the aforementioned sent via e-mail or U.S. First Class Mail on April 7, 2009 to the parties listed on Post-Effective Official Service List for Limited Notice No. 5 Dated March 31, 2009.

/s/ Carrie Lawrence
Carrie Lawrence
Lewis and Roca LLP